University of Victoria Graduate Students’ Society

Briefing on proposed bylaw changes to bring bylaws into compliance with the Society Act

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Prepared for: the Executive Board

INTRODUCTION

In 2015, BC updated the Society Act after an extensive review. The revised Society Act\(^1\) comes into effect on November 28, 2016, and the GSS must ensure it is compliant with the legislation by that date. This briefing proposes a series of motions to bring the GSS Constitution and Bylaws into compliance with the new regulations.

BYLAW CHANGES REQUIRED

CONSTITUTION

Background
The Constitution is the first section of the Constitution and Bylaws, and sets out the purposes of a non-profit organization.

<table>
<thead>
<tr>
<th>Legislative change</th>
<th>Current GSS Constitution</th>
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<tbody>
<tr>
<td>Previously the society act stipulated that if a constitution included more than the society’s name and purposes, it must stipulate whether the additional sections were alterable. Under the new society act, the constitution must include only the Society’s name and purpose.</td>
<td>The current GSS constitution includes a section that will need to be removed in order to be compliant with the Society Act. It reads: <strong>DISSOLUTION OF THE SOCIETY:</strong> Upon winding up or dissolution of the Graduate Students’ Society, any assets remaining after the satisfaction of its debts and liabilities shall be given or transferred to such Canadian students’ organizations promoting objectives similar to those set out in the University of Victoria Graduate Students’ Society constitution. This article is alterable.</td>
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Commentary
To remain compliant, the GSS must remove section 3 of the constitution. The GSS can choose re-locate this section to the bylaws, removing the statement about alterability, which would now be redundant.

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\(^1\) The new legislation can be found here: [https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/40th-parliament/4th-session/bills/third-reading/gov24-3](https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/40th-parliament/4th-session/bills/third-reading/gov24-3)

Proposed motion

**BIRT Section 3 of the GSS Constitution be struck; and**

**BIFRT Bylaw XVI – DISSOLUTION OF THE SOCIETY be added to the Bylaws as follows:**

“Upon winding up or dissolution of the Graduate Students' Society, any assets remaining after the satisfaction of its debts and liabilities shall be given or transferred to such Canadian students' organizations promoting objectives similar to those set out in the University of Victoria Graduate Students’ Society constitution. This article is alterable.”

**SPECIAL RESOLUTION**

Background

The Society Act requires a higher threshold for approval of a “special resolution”. Special resolutions are used for motions to change society bylaws or approve financial transactions involving risk, such as borrowing funds.

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<th>Legislative change</th>
<th>Current GSS bylaws</th>
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<td>Threshold for Special Resolution motions decreased from 75% to 2/3 majority (66%).</td>
<td>Current GSS bylaws require 75% for special resolution</td>
</tr>
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</table>

Commentary

The GSS Bylaws currently require a 2/3 (66%) vote for the following votes to pass:

- A vote by Grad Council to initiate a referendum (Bylaw 4.3.ii)
- A vote by Grad Council to call a Special General Meeting (Bylaw 5.4.b)
- A vote by Grad Council to initiate a motion to change the bylaws at a general meeting (Bylaw 15.2.b)

GSS Bylaws currently define “Special Resolution” as a resolution that passes with a seventy-five percent (75%) majority.

The GSS Bylaws requires special resolutions for the following votes to pass:

- A motion at a general meeting to revoke membership in the GSS (Bylaw 2.4.b)
- A motion at a general meeting to remove a member of the Executive Board (Bylaw 12.1)
- A motion at Grad Council to revoke membership in the Electoral Appeals Committee (Bylaw 4.2.d)
- A motion at a general meeting to allow the Executive Board the power to borrow funds (Bylaw 14.5)
- A motion at a general meeting to amend the bylaws (Bylaw 15.1)

If the bylaws are amended to change the definition of Special Resolution to a 2/3 majority, the required threshold of votes to pass will be reduced for all of these types of motions.

The members previously voted to reduce the threshold for a special resolution to a 2/3 majority, in accordance with standard

Proposed motion

**BIRT the definition of Special Resolution on the GSS bylaws be amended as follows:**

“Special Resolution” means a resolution that passes with a seventy-five percent (75%) two-thirds (2/3) majority.
REMNUNERATION FOR BOARD MEMBERS AND OFFICERS OF THE SOCIETY

Background
The revised Society Act requires that board members may not be paid a stipend unless explicitly permitted in the bylaws.

Society Audits will also include a note detailing the amount of remuneration paid to Board members, and the salaries of any management staff paid more than $75,000/year.

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<td>The following language is included in the revised Society Act:</td>
<td><strong>BYLAW X - EXECUTIVE BOARD DIRECTOR STIPEND</strong></td>
</tr>
<tr>
<td><strong>46</strong> (1) Unless permitted by the bylaws, a society must not pay to a director of the society remuneration for being a director.</td>
<td>10.1 Directors of the Executive Board shall receive an annual stipend in an amount to be recommended by the Stipend Review Committee and approved at a General Meeting. The Committee will be elected by the Graduate Representative Council annually. Terms of reference for the committee will be set by the Graduate Representative Council, but the Committee’s purpose(s) must include an annual review of the directors’ hours and stipends. The Stipend Review Committee may invite any member of the Executive Board to submit information pertinent to the work of the committee. However, no current Executive Board member may sit on the Stipend Review Committee. Further, no current member of the Stipend Review Committee may stand for election to the Executive Board.</td>
</tr>
<tr>
<td>(3) The bylaws of a society may restrict the reimbursement of a director under subsection (2) by doing one or more of the following: (a) imposing conditions on the payment of reimbursement; (b) limiting the amount of reimbursement payable; (c) prohibiting reimbursement.</td>
<td>10.2 The stipend shall be paid in monthly instalments: within thirty (30) days following the completion of each month of service by an Executive Board director, providing that the director has provided to the Grad Council a written report on Society-related activities. Grad Council has a right of disapproval of any irregular or unsubstantiated claim for remuneration.</td>
</tr>
<tr>
<td>(4) Despite subsections (1) to (3), payment to a director by a society of remuneration or reimbursement authorized by the bylaws or this section is subject to any condition, limitation or prohibition on the payment provided for in the regulations.</td>
<td></td>
</tr>
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</table>

Commentary
The Society Act makes it explicit that director’s compensation is not a wage. In conjunction with the GSS Bylaws, it also makes it explicit that the Graduate Representative Council may withhold the stipend if the director’s report is not submitted to Council.

There is no provision in the GSS bylaws for paying a stipend top up to Executive Board members, which is a practice developed by a past Stipend Review Committee. This means that a budget for stipend top ups (if any) must be included in the Stipend Committee Report and approved by the general meeting each year.
There is no language authorizing Grad Council to pay a stipend to Grad Council members. Current practice is to pay the Electoral Officer a stipend of $100, and to allow Grad Council to assign a small stipend to a Grad Rep who takes on duties of an Executive Board member.

Proposed motions

*BIRT Bylaw 4 be amended to add the following sub-section

**4.11 Stipends for the Electoral Officer and Electoral Appeals Committee**

*The Electoral Officer shall be paid a stipend for each Election and Referendum period. The stipend for the Electoral Officer shall be set by the Stipend Review Committee and approved at a general meeting.*

*In the event that the Electoral Appeals Committee convenes an appeal hearing, members of the Electoral Appeals Committee shall be paid a stipend. The Stipend for the Electoral Appeals Committee shall be set by the Stipend Review Committee and approved at a general meeting.*

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**NOTES ON LEGISLATIVE CHANGES REQUIRING NO BYLAW CHANGES**

**RECORDS**

*Background*

Members’ right to access records is guaranteed in the current GSS bylaws, and the current Society Act. With the coming amendments to the Society Act, the law will now clearly outline the types of records that must be kept, and must be accessible to members. These “records to be kept” are listed in section 20 of the new legislation. No changes to the bylaws are required, but the GSS procedures manual should be updated to ensure compliance with the updated regulation.

Executive Board members should be aware that the contact information they provided to the GSS at the time of their election, including their phone number and email, is part of the publicly available records of the society.

There is no change required to remain compliant with the new legislation.

**DIRECTOR’S TERM OF OFFICE**

*Background*

Currently, the Society Act stipulates that a director continues in their role until a replacement is elected, while our bylaws state the term of the Board of Directors is April 1 – March 31.

There is no change required to remain compliant with the new legislation.

**PARTICIPATION AT GENERAL MEETINGS BY VIDEO CONFERENCE**

*Background*

About 20% of GSS members are distance students. The current practice at the GSS is to facilitate attendance by video conference. The new Society Act clarifies that participation by electronic communication is allowed, but that a society is not required to facilitate electronic participation in the meetings.
There is no change required to remain compliant with the new legislation.

RESTRICTIONS ON INVESTMENTS, BORROWING AND ISSUANCE OF SECURITIES

Background
The GSS policy restricts investment to Guaranteed Income Certificates (GICs). The new Society Act legislation states

“33 A society may invest its funds only
(a) in accordance with its bylaws, or
(b) in an investment in which a prudent investor might invest, unless the bylaws prohibit that investment.”

Commentary
No change is required to remain compliant with the legislation. The members may wish to refer to the policy in the bylaws, or enshrine a conservative investment policy in the bylaws.

RESTRICTIONS ON WHO MAY SERVE ON A BOARD

Background
The revised legislation restricts who is eligible to be a director or senior manager of a society. The revised law states:

“A person is qualified to be a director of a society only if the person is an individual who is at least 18 years of age.

(2) Despite subsection (1), an individual who is 16 or 17 years of age is qualified to be a director of a society if provided for in the regulations.

(3) Despite subsections (1) and (2), an individual is not qualified to be a director of a society if the individual is

(a) found by any court, in Canada or elsewhere, to be incapable of managing the individual's own affairs,
(b) an undischarged bankrupt, or
(c) convicted in or out of British Columbia of an offence in connection with the promotion, formation or management of a corporation or unincorporated entity, or of an offence involving fraud, unless
(i) the court orders otherwise,
(ii) 5 years have elapsed since the last to occur of
(A) the expiration of the period set for suspension of the passing of sentence without a sentence having been passed,
(B) the imposition of a fine,
(C) the conclusion of the term of any imprisonment, and
(D) the conclusion of the term of any probation imposed, or
Commentary
No change is required to remain compliant with the legislation. Electoral procedures will need to be updated to ensure compliance with this regulation.

RESTRCTIONS ON WHO MAY SERVE ON A BOARD OR AS A SENIOR MANAGER

Background
The revised legislation restricts who is eligible to be a director or senior manager of a society. The revised law states:

“A person is qualified to be a director of a society only if the person is an individual who is at least 18 years of age.

(2) Despite subsection (1), an individual who is 16 or 17 years of age is qualified to be a director of a society if provided for in the regulations.

(3) Despite subsections (1) and (2), an individual is not qualified to be a director of a society if the individual is

(a) found by any court, in Canada or elsewhere, to be incapable of managing the individual's own affairs,
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(c) convicted in or out of British Columbia of an offence in connection with the promotion, formation or management of a corporation or unincorporated entity, or of an offence involving fraud, unless
(i) the court orders otherwise,
(ii) 5 years have elapsed since the last to occur of
(A) the expiration of the period set for suspension of the passing of sentence without a sentence having been passed,
(B) the imposition of a fine,
(C) the conclusion of the term of any imprisonment, and
(D) the conclusion of the term of any probation imposed, or
(iii) a pardon was granted or issued, or a record suspension was ordered, under the Criminal Records Act (Canada) and the pardon or record suspension, as the case may be, has not been revoked or ceased to have effect. “(Section 44)

Section 61 states that people restricted from serving on a Board of Directors are also restricted from being employed as a senior manager of a society.
Commentary
No change is required to remain compliant with the legislation. Electoral procedures and hiring procedures will need to be updated to ensure compliance with this regulation.